

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

LOUIS D. BUTLER,

Plaintiff,

vs.

JERRY BIPPUS, et al.,

Defendants.

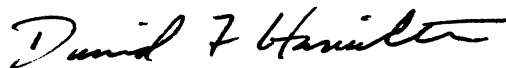
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E N T R Y

The motion to dismiss filed by defendants Gonyou and Beard on January 3, 2007, is **denied without prejudice**. The reasons are that (1) the motion does not recite that a copy was served *on the plaintiff in this case*, (2) the motion rests on materials outside the record but lacks an evidentiary basis for a large portion of the factual assertions in the supporting memorandum, (3) the motion does not clearly distinguish between its failure to state a claim rationale and its lack of subject matter jurisdiction rationale, although the latter must be considered first, *Winslow v. Walters*, 815 F.2d 1114, 1116 (7th Cir. 1987), (4) reliance on the *Rooker-Feldman* doctrine based on a decision issued after the filing of the lawsuit in this court is highly problematic, *Taliaferro v. Darby Township Zoning Bd.*, 458 F.3d 181, 192 (3d Cir. 2006)("[A]pplication of the Rooker-Feldman doctrine is necessarily limited to 'cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.'" )(quoting *Exxon Mobile Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)), and (5) the motion as a whole lacks the precision of analysis needed to support the outcome which these defendants seek.

So ordered.



DAVID F. HAMILTON, Judge  
United States District Court

Date: January 8, 2007

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